

## SENATE BILL No. 105

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-13-3-27; IC 12-7-2-61; IC 35-38-5-5.

**Synopsis:** Background checks. Permits an employer to request a limited criminal history check of an employee who provides services involving contact with children, the mentally ill, or the disabled. Makes conforming amendments.

**Effective:** July 1, 2005.

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**Long, Lanane**

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January 4, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 105

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 10-13-3-27 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as  
3 provided in subsection (b), on request, law enforcement agencies shall  
4 release or allow inspection of a limited criminal history to noncriminal  
5 justice organizations or individuals only if the subject of the request:  
6 (1) has applied for employment with a noncriminal justice  
7 organization or individual;  
8 (2) has applied for a license and criminal history data as required  
9 by law to be provided in connection with the license;  
10 (3) is a candidate for public office or a public official;  
11 (4) is in the process of being apprehended by a law enforcement  
12 agency;  
13 (5) is placed under arrest for the alleged commission of a crime;  
14 (6) has charged that the subject's rights have been abused  
15 repeatedly by criminal justice agencies;  
16 (7) is the subject of a judicial decision or determination with  
17 respect to the setting of bond, plea bargaining, sentencing, or

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probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

**(9) is employed by a noncriminal justice organization or individual to provide services that involve contact with, care of, or supervision over:**

**(A) a child; or**

**(B) an individual who is:**

**(i) mentally ill (as defined in IC 12-7-2-131);**

**(ii) physically disabled; or**

**(iii) developmentally disabled (as defined in IC 12-7-2-62);**

~~(9)~~ **(10)** has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

~~(11)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children;

~~(12)~~ **(13)** is or was required to register as a sex and violent offender under IC 5-2-12; or

~~(13)~~ **(14)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

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(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
  - (A) Employment with a state or local governmental entity.
  - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 2. IC 12-7-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 61. "Developmental disability" means the following:

(1) Except as provided in subdivision (2), before July 1, 1993, the term means a disability of an individual that:

(A) is attributable to:

- (i) mental retardation, cerebral palsy, epilepsy, or autism;
- (ii) any other condition found to be closely related to mental retardation, because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires similar treatment and services; or
- (iii) dyslexia resulting from a disability described in this subdivision;

- (B) originates before the person is eighteen (18) years of age;
- (C) has continued or is expected to continue indefinitely; and
- (D) constitutes a substantial disability to the individual's ability to function normally in society.

(2) For purposes of IC 12-10-7 and IC 12-28-1 before July 1, 1993, ~~and~~ for purposes of IC 12 after June 30, 1993, **and for purposes of IC 10-13-3-27**, the term means a severe, chronic disability of an individual that:

- (A) is attributable to a mental or physical impairment, or a combination of mental and physical impairments (other than a sole diagnosis of mental illness);
- (B) is manifested before the individual is twenty-two (22) years of age;
- (C) is likely to continue indefinitely;
- (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended

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duration and are individually planned and coordinated; and  
 (E) results in substantial limitations in at least three (3) of the  
 following:

- (i) Self-care.
- (ii) Receptive and expressive language.
- (iii) Learning.
- (iv) Mobility.
- (v) Self-direction.
- (vi) Capacity for independent living.
- (vii) Economic self-sufficiency.

SECTION 3. IC 35-38-5-5 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section does  
 not apply to a request to a law enforcement agency for the release or  
 inspection of a limited criminal history to a noncriminal justice  
 organization or individual whenever the subject of the request is  
 described in IC 10-13-3-27(a)(8), **IC 10-13-3-27(a)(9)**, or  
~~IC 10-13-3-27(a)(12)~~; **IC 10-13-3-27(a)(13)**.

(b) A person may petition the state police department to limit access  
 to the person's limited criminal history to criminal justice agencies if  
 more than fifteen (15) years have elapsed since the date the person was  
 discharged from probation, imprisonment, or parole (whichever is  
 later) for the last conviction for a crime.

(c) When a petition is filed under subsection (b), the state police  
 department shall not release limited criminal history to noncriminal  
 justice agencies under ~~IC 10-13-5-27~~; **IC 10-13-3-27**.

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